

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MICHAEL W. TOLOMEO and
SERAFIN CHAVEZ, individually,
and as representatives of a Class of
Participants and Beneficiaries
of the RR Donnelley Savings Plan,

Plaintiffs,

V.

R.R. DONNELLEY & SONS, INC., et
al.,

Defendants.

No.: 1:20-cv-7158

Honorable Charles R. Norgle Sr.

**AGREED ORDER GRANTING JOINT MOTION AND STIPULATION TO CLASS
CERTIFICATION AND ALLOWING FOURTH AMENDED COMPLAINT**

The parties having conferred, and the Court having considered the parties' proposal, it is ORDERED:

1. **Class Certification Motion.** On July 21, 2022, Plaintiffs filed their Motion for Class Certification. Dkts. 37 and 37-1. Following the filing of that motion, the parties met and conferred. As a result of those meet-and-confer sessions, Defendants have agreed not to oppose class certification, and have agreed to certification of the following class:

All participants and beneficiaries of the R.R. Donnelley Savings Plan from December 3, 2014 until the present, excluding the Defendants or any participant/beneficiary who is a fiduciary to the Plan.

The parties agree that this class will be certified as a non-opt-out class under Fed. R. Civ. P. 23(b)(1). This class will be certified solely with respect to the claim that the Plan paid excessive recordkeeping fees, but shall not be certified with respect to the claim that the Plan and its fiduciaries made inadequate disclosures under 29 C.F.R. 2550.404a-5 (as explained below this latter claim will be dismissed).

2. **Additional Agreements.** As a result of the parties' meet-and-confer, the parties agree that (a) the requirements of Rule 23(a) and 23(b)(1) are satisfied; (b) the provision of class notice is not necessary at this time, as the class is certified as a non-opt-out class under Rule 23(b)(1); and (c) pursuant to Rule 23(g)(1), the Court appoints plaintiffs' current counsel as class counsel, and the two plaintiffs as class representatives.

3. **Fourth Amendment Complaint.** Plaintiffs propose to file a Fourth Amended Complaint that, among other things, drops Plaintiffs' claims that the Plan made inadequate disclosures under 29 C.F.R. 2550.404a-5. In particular, Plaintiffs will be omitting from their Fourth Amended Complaint the following allegations currently made in Third Amended Complaint: paragraphs 151-159, and the portions of paragraphs 5, 68, and 177 that relate to their duty-to-disclose claim.

4. **Reservation of Rights.** The parties acknowledge that Defendants are reserving their rights with respect to all other issues with respect to liability and damages, including but not limited to whether certain members of the putative class released the claims at issue in this lawsuit.

So Ordered.

8-23-22

Charles Noor
USDT